

From: [Dan Harrison](#)
To: [Karl Simon](#)
Cc: [Janet Cohen](#); [Martin Reineman](#); Hormes.Linda@epamail.epa.gov; [Linc Wehrly](#); [Tom Ball](#); [Russell Banush](#); [John Hannon](#)
Subject: Mercedes E320 Blue Tec 1 Diesel [REDACTED] JS06
Date: 11/13/2006 04:16 PM

Karl,

We are still gathering information:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I will keep everyone posted.

--Dan

Dan Harrison, EPA
Manager, Vehicle Programs Group
Certification and Compliance Division
734-214-4281 734-214-4053 (fax)

Visit EPA's Green Vehicle Guide at: www.epa.gov/greenvehicles

----- Forwarded by Dan Harrison/AA/USEPA/US on 11/13/2006 04:00 PM -----

Linda
Hormes/AA/USEPA/US
EPA-OAR,OTAQ,CISD
Sent by: Linda Hormes

To: Martin Reineman/AA/USEPA/US@EPA, Dan
Harrison/AA/USEPA/US@EPA, Russell
Banush/AA/USEPA/US@EPA, Linc
Wehrly/AA/USEPA/US@EPA

cc

Received Date:
11/13/2006 01:55 PM
Transmission Date:
11/13/2006 01:55:51 PM

Subject: Regulations regarding conditional certification under
CAP 2000

Here are the CAP 2000 regulations at 40 CFR 86.1835(d) regarding conditional certification. What to do if a nonconformance is determined later is in paragraph (1),

highlighted. You should contact OGC about this situation, as it could involve hearings and other legal matters we very infrequently come across. Your task, I would think, is to quickly determine if "vehicles..in the test group do not meeth the applicable standards...", to see if production should be suspended. Definitely OGC material...

(d) Upon request of the manufacturer, the Administrator may issue a conditional certificate of conformity for a test group which has not completed the Administrator testing required under paragraph (a) of this section. Such a certificate will be issued based upon the condition that the confirmatory testing be completed in an expedited manner and that the results of the testing be in compliance with all standards and procedures.

(1) If, based on this testing or any other information, the Administrator later determines that the vehicles included in this test group do not meet the applicable standards, the Administrator will notify the manufacturer that the certificate is suspended. The certificate may be suspended in whole or in part as determined by the Administrator. Upon such a notification, the manufacturer must immediately cease the introduction of the affected vehicles into commerce. The manufacturer may request a hearing to appeal the Administrators decision using the provisions of §86.1853–01.

(2) Production of vehicles by a manufacturer under the terms of this paragraph (d) will be deemed to be a consent to recall all vehicles in the test group which the Administrator determines do not meet applicable standards, and to cause such nonconformity to be remedied at no expense to the owner.